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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/764,718	01/18/2001	Patrick H. Wnek	5887.00	7564

20686 7590 07/21/2003

DORSEY & WHITNEY, LLP  
INTELLECTUAL PROPERTY DEPARTMENT  
370 SEVENTEENTH STREET  
SUITE 4700  
DENVER, CO 80202-5647

EXAMINER

ART UNIT PAPER NUMBER

DATE MAILED: 07/21/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

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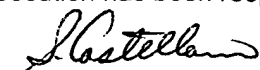
<b>Communication Re: Appeal</b>	<b>Application No.</b> 09/764,718	<b>Applicant(s)</b> WNEK, PATRICK H.
	<b>Examiner</b> Stephen J. Castellano	<b>Art Unit</b> 3727

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

1. ☐ The Notice of Appeal filed on \_\_\_\_\_ is not acceptable because:
  - (a) ☐ it was not timely filed.
  - (b) ☐ the statutory fee for filing the appeal was not submitted. See 37 CFR 1.17(b).
  - (c) ☐ the appeal fee received on \_\_\_\_\_ was not timely filed.
  - (d) ☐ the submitted fee of \$\_\_\_\_\_ is insufficient. The appeal fee required by 37 CFR 1.17(b) is \$\_\_\_\_\_.
  - (e) ☐ the appeal is not in compliance with 37 CFR 1.191 in that there is no record of a second or a final rejection in this application.
  - (f) ☐ a Notice of Allowability, PTO-37, was mailed by the Office on \_\_\_\_\_.
2. ☐ The appeal brief filed on \_\_\_\_\_ is NOT acceptable for the reason(s) indicated below:
  - (a) ☐ the brief and/or brief fee is untimely. See 37 CFR 1.192.
  - (b) ☐ the statutory fee for filing the brief has not been submitted. See 37 CFR 1.17(c).
  - (c) ☐ the submitted brief fee of \$\_\_\_\_\_ is insufficient. The brief fee required by 37 CFR 1.17(c) is \$\_\_\_\_\_.

**The appeal in this application will be dismissed unless corrective action is taken to timely submit the brief and requisite fee. Extensions of time may be obtained under 37 CFR 1.136(a).**

3. ☒ The appeal in this application is DISMISSED because:
  - (a) ☐ the statutory fee for filing the brief as required under 37 CFR 1.17(c) was not timely submitted and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
  - (b) ☐ the brief was not timely filed and the period for obtaining an extension of time to file the brief under 37 CFR 1.136 has expired.
  - (c) ☐ Request for Continued Examination (RCE) under 37 CFR 1.114 was filed on \_\_\_\_\_.
  - (d) ☒ other: See Continuation Sheet
4. ☒ Because of the dismissal of the appeal, this application:
  - (a) ☒ is abandoned because there are no allowed claims.
  - (b) ☐ is before the examiner for final disposition because it contains allowed claims. Prosecution on the merits remains CLOSED.
  - (c) ☐ is before the examiner for consideration of the submission and prosecution has been reopened pursuant to 37 CFR 1.114.

  
 Stephen J. Castellano  
 Primary Examiner  
 Art Unit: 3727

Continuation of 3. (d) Other: For at least the reason that applicant submits a revised brief which is not compliant with 37 CFR 1.192C for the same reasoning has presented in the Notification of Non-compliance mailed June 3, 2003 because the arguments section is not separated by separate headings for each issue on appeal. Also, the arguments section is inadequate because for each rejection, it doesn't present a separate and different argument for each claim, since each claim does not stand or fall with the other claims. For example, in arguments section (8), part C, paragraph 2, there is no separate argument why claims 1 and 2 do not stand or fall together and why most of the other claims do not stand or fall with claim 1. Although claim 4 has a separate argument to distinguish it from claim 1, there is no separate argument presented to establish why claims 4 and 9-11 do not stand or fall together. There is no argument presented for the 112, second paragraph rejection (suggesting an amendment to overcome the rejection is not an argument)..